IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 150 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANTAGAURI AMRUTLAL JOSHI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 150 of 2001

MR VM TRIVEDI for Petitioner No. 1

MR HL JANI, APP for Respondent Nos. 1 and 3

Respondent no.2 served.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/12/2001

ORAL JUDGEMENT

#. This is a Revision Application preferred under Section 397 read with Section 401 CrPC against the order dated 23rd January, 2001 made by the learned Additional

Sessions Judge, Veraval in Criminal Misc.Application No.351/2000.

#. It appears that the respondent no.2 Amrutlal Joshi was at the relevant time serving as Talati-cum-Mantri in Junagadh District. The said Amrutlal Joshi has been charged in Special Case No.20/99 for offence punishable under the Prevention of Corruption Act, 1988. During the search some "Kishan Vikas Patra" worth Rs.34,000=00 in the name of the present petitioner Kantagauri Amrutlal Joshi, the wife of the said accused were recovered from the residence of the accused. The said "Kishan Vikas Patra" have been seized by the investigating agency as muddamal articles. The petitioner moved above Criminal Misc.Application No.351/2000 under Section 451 CrPC for custody of the said muddamal articles pending trial. It was the claim of the petitioner that the muddamal "Kishan Vikas Patra" stood in her name, were purchased by her from her own income and had nothing to do with the accused Amrutlal Joshi. The said "Kishan Vikas Patra" had matured and were required to be encashed, otherwise the petitioner should suffer loss of interest. The said application was contested by the prosecution. The learned trial Judge was pleased to reject the same under the impugned order dated 23rd January, 2001. Feeling aggrieved, the petitioner has preferred the present Revision Application.

#. In the present proceedings, the accused Amrutlal Joshi has filed affidavit and has stated that the muddamal "Kishan Vikas Patra" were the property of his wife, the petitioner, purchased by her from her own independent earnings.

#. It has not been the case of the petitioner that she had an independent source of income, nor had she satisfied the learned trial Judge the source of income from which she had purchased the muddamal "Kishan Vikas Patra". In absence of such averment or evidence, it may prima facie be inferred that the muddamal "Kishan Vikas Patra" were purchased by the accused in the name of his wife, the petitioner herein from his illegitimate income. Besides, if the muddamal "Kishan Vikas Patra" are permitted to be handed over to the petitioner and to be encashed, the muddamal article will lose its identity which should weaken the case of the prosecution. Therefore also, the said muddamal articles can not be handed over to the petitioner as prayed for.

#. For the above reasons, the Revision Application is dismissed. Rule is discharged.

(Ms. R.M. Doshit, J.)

/sakkaf